

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: DAIRY FARMERS OF)
AMERICA, INC. CHEESE ANTITRUST) Master File No. 09-cv-03690
LITIGATION) MDL No. 2031
THIS DOCUMENT RELATES TO:) The Honorable Robert M. Dow Jr.
DIRECT PURCHASER ACTION)

**THE DIRECT PURCHASER PLAINTIFFS' MOTION FOR PRELIMINARY
APPROVAL OF SETTLEMENT WITH CERTAIN DEFENDANTS AND FOR AN
ORDER ESTABLISHING DATES AND PROCEDURES UNDER RULE 23
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

The Direct Purchaser Plaintiffs, by their undersigned counsel, and pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, respectfully move the Court for preliminary approval of their Stipulation and Agreement of Settlement ("Settlement" or "Settlement Agreement") with Dairy Farmers of America, Inc. ("DFA") Keller's Creamery LP, Keller's Creamery, L.L.C., Keller's Creamery Management, LLC, Gary Hanman, Gerald Bos, Frank Otis, and Glenn Millar (collectively the "Settling Defendants") and for entry of an order establishing dates and procedures for the final approval of class action settlement.¹

A copy of the Settlement Agreement and its exhibits are attached hereto as Exhibit 1. The proposed schedule and procedures that the Direct Purchaser Plaintiffs seek approval for from the Court with respect to preliminary approval of the Settlement is attached hereto as Exhibit 1-H titled *[Proposed] Order Preliminarily Approving Proposed Settlement, Scheduling Hearing For Final Approval Thereof, and Approving The Proposed Form and Program of Notice To The Class.*

¹ The proposed settlement does not involve Defendant Schreiber Foods, Inc. ("Schreiber") nor does the Settlement relate to or purport to release any claims against Schreiber nor any claims alleged in the Indirect Purchaser Action except for any Direct Purchaser Claims.

In support of this motion, the Direct Purchaser Plaintiffs rely on *Direct Purchaser Plaintiffs' Memorandum In Support Of Motion For An Order Establishing Dates And Procedures Under Rule 23 For Final Approval Of Class Action Settlement* which is attached as Exhibit "1" to *The Direct Purchaser Plaintiffs' Motion For Leave To File An Oversized Brief Instanter* which is being filed contemporaneously with this motion.

WHEREFORE, the Direct Purchaser Plaintiffs respectfully request that that the Court grant preliminary approval of the proposed Settlement, approve the plan of notice and also set appropriate dates all as set forth in the accompanying *[Proposed] Order Preliminarily Approving Proposed Settlement, Scheduling Hearing For Final Approval Thereof, and Approving The Proposed Form and Program of Notice To The Class* which is attached hereto as Exhibit 1-H.

Dated: March 21, 2013

Respectfully submitted,

/s/ Christopher Lovell
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